

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



IN THE MATTER OF:)
) Case Nos.
UNIT DETERMINATION FOR SERVICE) SF-RR-1002-H et al.
EMPLOYEES, LAWRENCE LIVERMORE)
NATIONAL LABORATORY, OF THE) Request for Reconsideration
UNIVERSITY OF CALIFORNIA) PERB Decision No. 245b-H
PURSUANT TO CHAPTER 744 OF THE)
STATUTES OF 1978 (HIGHER) PERB Decision No. 245d-H
EDUCATION EMPLOYER-EMPLOYEE)
RELATIONS ACT) August 19, 1983

Appearances; Douglas H. Barton, Attorney (Corbett, Kane, Berk & Barton) and James N. Odle, Associate Counsel for the Regents of the University of California.

Before: Tovar, Jaeger, Morgenstern and Burt, Members.*

DECISION

Following the issuance of PERB Decision No. 245b-H,¹ the University of California (UC) filed with the Public Employment Relations Board (PERB or Board) a request that the Board reconsider its decision that Vehicle Dispatcher Laurel Taylor is not a supervisor and is therefore a member of the Lawrence Livermore National Laboratory service bargaining unit. No employee organization filed a response.

*Chairperson Gluck did not participate in this Decision.

¹In the Matter of: Unit Determination for Service Employees, Lawrence Livermore National Laboratory, of the University of California Pursuant to Chapter 744 of the Statutes of 1978 (Higher Education Employer-Employee "Relations Act) (3/8/83) PERB Decision No. 245b-H.

UC claims that extraordinary circumstances are present to merit reconsideration within the meaning of PERB rule 324102 because the Board erred in its interpretation of facts in the hearing record. Specifically, UC argues that the record shows

2pERB rule 32410 pertains to reconsideration of Board decisions and states.

(a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. An original and 5 copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. The grounds for requesting reconsideration are limited to claims that the decision of the Board itself contains prejudicial errors of fact, or newly discovered evidence or law which was not previously available and could not have been discovered with the exercise of reasonable diligence.

(b) Any party shall have 20 days from service to file a response to the request for reconsideration. An original and 5 copies of the response shall be filed with the Board itself in the headquarters office. Service and proof of service of the response pursuant to Section 32140 are required.

(c) The filing of a request for reconsideration shall not operate to stay the effectiveness of a decision of the Board itself unless otherwise ordered by the Board itself.

PERB rules are codified at California Administrative Code, title 8, section 31001 et seq.

that Taylor effectively recommends the hiring of employees into her area, that she has significant influence on employee evaluations, that it is irrelevant that Taylor has never exercised her authority with regard to disciplinary matters, that Taylor's duties with regard to work assignment and vacation scheduling are not essentially clerical, and that Taylor has effectively recommended the granting of merit increases to employees and the promotion of another dispatcher. UC argues that these duties create a potential conflict of interest with other employees so that Taylor's work can not be found to be substantially similar to that of her subordinates.

The Board previously considered all the facts in the record and UC's arguments in PERB Decision No. 245b-H, supra. UC has not raised any new issues of fact or law, nor is the Board convinced that it erred in its interpretation of the facts. For these reasons the Board does not find extraordinary circumstances and UC's request for reconsideration is denied.

ORDER

Upon the foregoing Decision and the entire record in this case, the Public Employment Relations Board ORDERS that the request for reconsideration of the exclusion of Laurel Taylor from the Lawrence Livermore National Laboratory service bargaining unit as supervisory, filed by the University of California, is DENIED for failure to show extraordinary circumstances.

By the BOARD